

REMARKS

Applicants respectfully request reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 25-47 are pending in the present application. Claim 25 is the independent claim.

Claims 25 and 35 have been amended. Support for the amendments to independent claim 25 can be found in the originally filed Specification (WO/01/26545), for example, in "Technique 1". More specifically, Applicants refer the Examiner to page 6 at lines 34-37, page 9 at lines 14-16, 21-23, and 27-30, page 15 at lines 13-16, page 16 at lines 26-35, page 17 at lines 6-10, page 20 at lines 32-35, page 23 at lines 33-34, page 24 at lines 3-19, Fig. 3, and Figs. 7A and 7B. Each of these citations indicate that the electrodes included in the detector are placed on the mother's abdomen. Further, with respect to Figs. 3, 7A, and 7B, Applicants note the "20 cm" scale on the figures, and the "6" shape representing the fetus with respect to the arrangement of the electrodes. Claim 35 has been amended only to correct a typographical error. Claims 48-62 have been cancelled without prejudice or disclaimer. No new matter is believed to have been added.

Applicants thank the Examiner for her time on 7 September 2006. In the 7 September 2006 Examiner Interview, Lewis, Greenberg, and Baker were discussed, and Applicants proposed amending the claims to clarify that the present invention, in contrast to the cited art, utilizes only the abdominal ECG signal to determine the fetal and maternal heart rate of the fetus and the mother.

Claims 43-47 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 35 and 38 stand rejected under 35 U.S.C. §1102, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

MPEP §2163 III(A) states that "The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims." Further, the MPEP states "In rejecting a claim, the examiner must set forth express findings of fact regarding the above analysis which support the lack of written description conclusion. These findings should: (A) Identify the claim limitation at issue; and (B) Establish a *prima facie* case by providing reasons why a person skilled in the art at the time the application was filed would not have recognized

that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed."

The Office Action at page 3 merely states that the "Examiner cannot find support in the specification for correlating the fetal ECG with a fetal template." However, Applicants respectfully refer the Examiner to the originally filed Specification (WO 01/26545) at page 24, line 33 to page 25, line 8. Applicants respectfully submit that no *prima facie* case has been established.

In the interest of compact prosecution, Applicants respectfully request that the Examiner set forth a *prima facie* case, as required by MPEP §2163.

Claims 25-27, 31, and 42 stand rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative as being unpatentable over U.S. Patent No. 6,115,624 to Lewis et al. Claims 25-32, 40, and 42 stand rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative as being unpatentable over U.S. Patent No. 6,751,498 to Greenberg et al. Claims 32-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lewis et al. Claims 25-27, 30-32, and 40-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,781,200 to Baker. All rejections are respectfully traversed.

Independent claim 25 recites, *inter alia*, "a detector to detect heart beats of the fetus, the detector including at least two electrodes for detecting ECG signals, and the detector adapted to be positioned on the abdomen of the mother in use", "a processor, coupled to the detector, to process the ECG signals received from the detector and to determine the heart rate of the fetus using only the processed ECG signals", and "means for determining the heart rate by determining the time interval between adjacent heart beats, so as to determine the heart rate of the mother using only the processed ECG signals".

Lewis et al. is directed to a multiparameter fetal monitoring device. More specifically, as discussed in the Examiner Interview, Lewis et al. utilizes both ECG and acoustic sensors to derive the fetal and maternal heart rate.

Greenberg et al. is directed to an apparatus and method for non-invasive, passive fetal heart monitoring. As discussed in the Examiner Interview, Greenberg et al. utilizes both chest and abdominal ECG electrodes to determine the fetal and/or maternal ECG.

Baker is directed to an ambulatory non-invasive automatic fetal monitoring system. As discussed in the Examiner Interview, Baker utilizes both chest and abdominal ECG electrodes to determine the fetal and/or maternal ECG.

The present invention, in contrast to the cited references, utilizes only the abdominal ECG signal to determine the fetal and maternal heart rate. Applicants respectfully submit that the cited references fail to teach or suggest at least this feature of the present invention. Thus, none of the cited references anticipate or render obvious independent claim 25.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 25 is respectfully requested.

In view of the foregoing, Applicants respectfully submit that the independent claim patentably defines the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

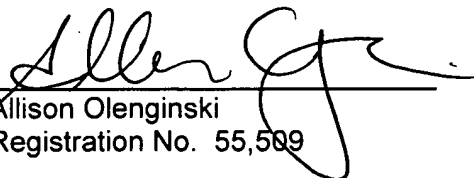
There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 26 October 2006

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